That such changes have not yet been appreciated by the profession is evidenced by late decisions of the Supreme Court dismissing writs of error for want of jurisdiction, with the remark that a writ of *certiorari* should have been requested.

For a discussion of these cases, see NOTES, p. 102.

FOREIGN CORPORATIONS — WHAT CONSTITUTES DOING BUSINESS WITHIN A STATE. — The defendant, a foreign railway corporation, had no property in Georgia but maintained a commercial agent there to solicit freight. He had no authority to make contracts. The plaintiff brought suit in Georgia for negligent injury that occurred in another state, and served the agent with process. *Held*, that the service was invalid. *De Bow* v. *Vicksburg S. & P. Ry.*, 98 S. E. 381 (Ga.).

No valid personal judgment can be rendered against a foreign corporation unless it is doing business within the state. *St. Clair* v. *Cox*, 106 U. S. 350; *Goldey* v. *Morning News*, 156 U. S. 518. What acts constitute doing business are matters of fact, and it is difficult to find any helpful general criterion. However, acts done by agents who have authority to bind the corporation are considered to be a transaction of business. *Commercial Mutual Accident Co.* v. *Davis*, 213 U. S. 245. And, conversely, acts done by agents who have no authority to bind the corporation in any way have been held not to constitute doing business. *People's Tobacco Co.* v. *American Tobacco Co.*, 246 U. S. 79. *Cf. International Harvester Co.* v. *Kentucky*, 234 U. S. 579. Thus, it has been frequently decided that a foreign railway, having no lines within the state, is not doing business therein merely by maintaining an agent to solicit shippers. *Abraham Bros.* v. *Southern Ry. Co.*, 149 Ala. 547, 42 South. 837; *Booz* v. *Texas & P. Ry.*, 250 Ill. 376, 95 N. E. 460; *Green* v. *Chicago, B. & Q. Ry.*, 205 U. S. 530. It should be noted, however, that there has been suggested a doctrine that, for acquiring jurisdiction over a foreign corporation that does not expressly consent to the jurisdiction, the cause of action must have arisen within the state and out of the business therein transacted. *Simon* v. *Southern Ry. Co.*, 236 U. S. 115. See *Old Wayne Life Association* v. *McDonough*, 204 U. S. 8, 22. The principal case and most of the cases holding that mere soliciting is not doing business could on their facts have been decided on this ground. There seems to be no good reason why soliciting is insufficient to give the state jurisdiction over causes of action arising within the state and out of the soliciting. Where this question was squarely presented, this view has been taken. *Armstrong Co.* v. *New York Central & H. R. R. Co.*, 129 Minn. 104, 151 N. W. 917.

INJUNCTIONS — ACTS RESTRAINED — SUITS IN FOREIGN JURISDICTION IN EVASION OF THE DOMESTIC LAW. — The defendant, a citizen of Indiana, brought an action of tort against the complainant, a fellow citizen, in Illinois. After the Statute of Limitations had run on the cause of action in Indiana, the complainant filed his bill to enjoin the Illinois suit on the ground that he would be deprived of the defense of the statute in Illinois. *Held*, that the action be enjoined. *Culp* v. *Butler*, 122 N. E. (Ind.) 684.

For a discussion of the principles involved, see NOTES, p. 92.

INSURANCE — RIGHTS OF BENEFICIARY — COMPLIANCE WITH CONDITIONS REGULATING CHANGE OF BENEFICIARY. — The beneficiary of a life certificate in a fraternal benefit association predeceased the insured. The latter took the certificate to the only representative of the association in the state and had him insert the name of a new beneficiary. A by-law of the association provided that a change of beneficiary would not be effective until the old policy had been surrendered and the executive committee had given its approval. Neither the insured nor the agent knew of this by-law. The insured died, and his

next of kin and the new beneficiary both claim the proceeds of the certificate. The association paid the money into court. *Held*, that the new beneficiary is entitled. *Adams* v. *Police & Firemen's Insurance Association*, 172 N. W. 755 (Neb.).

The by-laws of a benevolent or mutual benefit association are, in the absence of any stipulation to the contrary, incorporated into the contract of insurance. *Grand Lodge A. O. U. W.* v. *Edwards*, 111 Maine, 359, 89 Atl. 147; *Supreme Council American Legion of Honor* v. *Smith*, 45 N. J. Eq. 466, 17 Atl. 770. See VANCE, INSURANCE, 190. The insured must therefore be charged with notice of their provisions. Accordingly, no question of the incidental powers of the agent to waive any requirement can arise. *Quinlan* v. *Providence Washington Insurance Co.*, 133 N. Y. 356, 31 N. E. 31. *Contra, Lamberton* v. *Connecticut Fire Insurance Co.*, 39 Minn. 129, 39 N. W. 76. See 13 HARV. L. REV. 146; 15 HARV. L. REV. 575. In appointing new beneficiaries, the insured must comply substantially with the procedure indicated in the contract. *Fink* v. *Fink*, 171 N. Y. 616, 64 N. E. 506; *Deal* v. *Deal*, 87 S. C. 395, 69 S. E. 886. See 31 HARV. L. REV. 657. But equity has made an exception where the insured has done all in his power to change the beneficiary and dies before the change is completed. *Supreme Conclave Royal Adelphia* v. *Capella*, 41 Fed. 1; *Hall* v. *Allen*, 75 Miss. 175, 22 So. 4. See 2 JOYCE, INSURANCE, 2 ed., §§ 740 *et seq.* Since the rights of the beneficiary vest at the death of the insured, it would seem that this exception should not be made where there is non-performance of an act declared by the contract to be a condition precedent to the change becoming effective. *Modern Woodmen of America* v. *Headle*, 88 Vt. 37, 90 Atl. 893. See 26 HARV. L. REV. 271. The association does not waive compliance with the by-laws by paying the money into court. *Boyle* v. *Fitzgerald*, 146 App. Div. 668, 131 N. Y. Supp. 469. *Contra, Pleasants* v. *Locomotive Engineers' Mutual Life and Accident Insurance Ass'n*, 70 W. Va. 389, 73 S. E. 976. The correctness of the decision in the principal case, therefore, may well be doubted.

INTERSTATE COMMERCE — CONTROL BY STATES — INABILITY OF STATES TO CONTROL INTRASTATE RATES UNDER FEDERAL CONTROL. — On the 16th of July, 1918, Congress authorized the President to take possession and assume control of telephone and telegraph systems. Under proclamation of the President the Postmaster General ordered an increase of rates. The State of South Dakota brought a bill to enjoin defendant from putting the order into effect. *Held*, that the bill be dismissed. *Dakota Central Telephone Co. et al.* v. *South Dakota*, U. S. Sup. Ct., No. 967, October Term, 1918.

For a discussion of this case, see NOTES, p. 94.

INTOXICATING LIQUORS — SALES — CRIMINAL RESPONSIBILITY OF EMPLOYER FOR ACTS OF EMPLOYEE. — A New Jersey statute made it unlawful to sell or permit to be sold certain liquors without a license. An illegal sale was made by an employee of the defendant. The lower court charged that the defendant was criminally responsible if he knew or reasonably should have known of the illegal sale. *Held*, the charge was erroneous. *State* v. *Waxman*, 107 Atl. 150 (N. J.).

Criminal liability for the acts of an agent differs radically from civil liability therefor. See *George* v. *Gobey*, 128 Mass. 289, 290; *People* v. *Green*, 22 Cal. App. 45, 50, 133 Pac. 334, 336. Usually express or implied authority or consent by the employer to an illegal sale by an employee is necessary for conviction of the former. *Commonwealth* v. *Wachendorf*, 141 Mass. 270, 4 N. E. 817; *Beane* v. *State*, 72 Ark. 368, 80 S. W. 573. Such authorization may be inferred from the circumstances. *State* v. *Legendre*, 89 Vt. 526, 96 Atl. 9. Under statutes expressly prohibiting the sale either by employer or employee, the former is